

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 7886

BILL NUMBER: HB 1767

DATE PREPARED: Feb 9, 1999

BILL AMENDED: Feb 8, 1999

SUBJECT: No sales solicitation listing.

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FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State

Summary of Legislation: (Amended) This bill requires the Consumer Protection Division of the Office of the Attorney General to publish a listing of telephone numbers of persons who do not wish to be solicited by telephone. A \$10 initial listing charge is assessed for a person who wishes to be included in the listing with a \$5 annual renewal fee. This bill prohibits a telephone solicitor from calling a number that appears in the quarterly listing published by the Division.

It requires a telephone solicitor who makes an unsolicited telephone call to state the solicitor's name and business immediately upon telephone contact with a consumer. It establishes other requirements that a telephone solicitor must meet before a contract made under a telephone sales call is valid. It prohibits the use of an automated dialing system or a recorded message by a telephone solicitor except under specific circumstances. It establishes penalties for violations.

It also requires the Consumer Protection Division of the Office of the Attorney General to notify Indiana residents of the rights and duties created by these provisions.

Effective Date: July 1, 1999.

Explanation of State Expenditures: (Revised) This bill requires the Consumer Protection Division of the Office of the Attorney General to publish quarterly a listing of telephone numbers of persons who do not wish to be solicited by telephone. It also requires that the Division notify Indiana residents of the rights and duties created by the provisions of this bill. The Division must also investigate complaints received concerning violations of the provisions listed above. The provisions requiring the Division to publish a quarterly listing, notify Indiana residents of their rights and duties, and investigate complaints, may increase expenses for the Office of the Attorney General. However, this bill establishes the Consumer Protection Division Solicitation Fund to be used by the Division to implement the above.

A person who violates certain provisions of the bill commits a Class D felony. (Other violations constitute

a Class B misdemeanor.) A Class D felony is punishable by a prison term ranging from 6 months to 3 years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$20,500 in FY 97. Individual facility expenditures range from \$11,000 to \$27,000. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually or \$5 daily per prisoner. The average length of stay in DOC facilities for all Class D felony offenders is approximately seven months.

Explanation of State Revenues: A \$10 initial listing charge is assessed for a person who wishes to be included in the listing with a \$5 annual renewal fee. The Division must provide, for a fee, the listing to telephone solicitors upon request. The amount of revenue that these provision will raise will depend on the number of individuals who are willing to pay to be put on the list and the number of telephone solicitors who purchase the listing. All fees collected must be deposited in the Consumer Protection Division Solicitation Fund, which is established for the purpose of administration of the law. Money in the fund does not revert to the State General Fund at the end of a state fiscal year.

A telephone solicitor who fails to comply with the above provisions commits a deceptive act that is actionable by the Attorney General. If convicted, the court may order the solicitor to pay to the state the reasonable costs of the Attorney General's investigation and prosecution related to the action.

If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund could increase. The maximum fine for a Class D felony is \$10,000. The maximum fine for a Class B misdemeanor is \$1,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, county or municipal court (courts of record), 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the State General Fund.

Explanation of Local Expenditures: Upon petition by any person that a telephone solicitor has failed to comply with the above, the circuit or superior court of the county of residence of the petitioner may enjoin the telephone solicitor from further violations. This provision may increase expenses to the court. The impact will depend on the number of violations and petitions brought before the court.

With respect to the Class D felony, if more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. With respect to the Class B misdemeanor, the misdemeanor is punishable by up to 180 days in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed, and if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed, and if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Consumer Protection Division of the Office of the Attorney General and the

Department of Correction.

Local Agencies Affected: Trial courts and local law enforcement agencies.

Information Sources: Indiana Sheriffs Association, Department of Correction.